

COMMISSION DIRECTIVE

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| ADMINISTRATIVE MATTERS | <input type="checkbox"/> | DATE | <u>November 8, 2006</u> |
| MOTOR CARRIER MATTERS | <input type="checkbox"/> | DOCKET NO. | <u>2005-57-C</u> |
| UTILITIES MATTERS | <input checked="" type="checkbox"/> | | <u></u> |

SUBJECT:

DOCKET NO. 2005-57-C – Joint Petition for Arbitration on Behalf of NewSouth Communications Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III, LLC and Xspedius [Affiliates] (Joint-Petitioners) of an Interconnection Agreement with BellSouth Telecommunications, Incorporated (BellSouth) Pursuant to Section 252(b) of the Communications Act of 1934, As Amended - Discuss with the Commission BellSouth Telecommunications, Incorporated and the Joint Petitioners Motion for Reconsideration of Order No. 2006-531.

COMMISSION ACTION:

Mr. Chairman, I have a Motion that disposes of both the Petition for Reconsideration filed by the Joint Petitioners and the Motion for Reconsideration filed by BellSouth. With regard to the Petition for Reconsideration filed by the Joint Petitioners, I move as follows:

On Issues 4, 5, 6, 9, 12, 97, 102 and 103, I move that we deny the Petition of the Joint Petitioners, since I believe that this Commission properly ruled on those issues in Order No. 2006-531. However, I move that we grant reconsideration as to Issue 100. On pages 25-26 of their Petition, the Joint Petitioners propose an alternative that would modify our ordered language. Issue 100 involves a question as to whether a competitive local exchange carrier or CLEC should be required to pay past due amounts in addition to those specified in BellSouth's notice of suspension or termination for nonpayment in order to avoid suspension or termination. At present, our Order specifies that the Joint Petitioners must pay all undisputed amounts that become past due between the issuance of the notice and the termination date, as well as the undisputed past-due amounts that were identified in the original notice of termination. The Joint Petitioners propose a modification, so that the language would apply on an account-by-account basis. The modified language would read:

*If a CLEC receives a notice of suspension or termination from BellSouth as a result of CLEC's failure to pay timely, CLEC should be required to pay all undisputed amounts **on the noticed account** that are past due as of the date of the pending suspension or termination action. (emphasis added)*

Mr. Chairman, I believe that this modification appropriately corrects a problem related to non-noticed accounts and eliminates much of the complexity entailed when hundreds of accounts are involved. The fact that BellSouth currently bills and gets paid on an account-by-account basis supports this modification, and I so move for adoption of this modification as stated.

With regard to the BellSouth Motion for Reconsideration, I move that the Motion be granted. BellSouth requests that we reconsider our decision on Issue 101. Issue 101 discusses the question of how many months of billing should be used to determine the maximum amount of the deposit. Our Order No. 2006-531 held that BellSouth's financial risk is properly addressed by the maximum deposit provision already agreed to with ITC^DeltaCom, or a maximum deposit of up to one month's billing for service paid in advance, and up to two months' billing for services paid in arrears. BellSouth requests reconsideration of this ruling, given the fact that BellSouth's interconnection agreement with ITC^DeltaCom contains several significant financial criteria-related terms that are not contained in the Joint Petitioners' interconnection agreement in this case. BellSouth notes that in exchange for DeltaCom agreeing to these financial criteria that reduce BellSouth's risk of non-payment, BellSouth agreed to the lower maximum security deposit provision that appears in ITC^DeltaCom's interconnection agreement. BellSouth states that, because the Joint Petitioners would not agree to these

financial criteria for the lower deposit, the BellSouth-proposed security deposit, i.e. the average of two (2) months of actual billing for existing customers or estimated billing for new customers is the appropriate amount for a deposit in the present case. I believe that BellSouth is correct in this regard, and I move that we adopt BellSouth's position. Further, Mr. Chairman, I move that our directive should contain a notation that a written order will follow which fully explains our decision in this matter.

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| PRESIDING | <u>Hamilton</u> | | | | | |
| | MOTION | YES | NO | OTHER | APPROVED | <input type="checkbox"/> |
| | | | | | APPROVED STC 30 DAYS | <input type="checkbox"/> |
| CLYBURN | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | ACCEPTED FOR FILING | <input type="checkbox"/> |
| FLEMING | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | DENIED | <input type="checkbox"/> |
| HAMILTON | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | AMENDED | <input type="checkbox"/> |
| HOWARD | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | TRANSFERRED | <input type="checkbox"/> |
| MITCHELL | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | SUSPENDED | <input type="checkbox"/> |
| MOSELEY | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | CANCELED | <input type="checkbox"/> |
| WRIGHT | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | | SET FOR HEARING | <input type="checkbox"/> |
| | | | | | ADVISED | <input type="checkbox"/> |
| Session: | Regular | | | | CARRIED OVER | <input type="checkbox"/> |
| Time of Session | <u>2:30 PM</u> | | | | RECORDED BY | <u>JBS</u> |